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SIPDIS

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TAGS: [ECON](#) [EINV](#) [ETRD](#) [PGOV](#) [IZ](#) [PREL](#)
SUBJECT: IRAQ UPDATES ITS INVESTMENT LAW: EXPLAINING THE
AMMENDMENT

REF: A. BAGHDAD 1838
[B](#). BAGHDAD 2751
[C](#). BAGHDAD 2750

Classified By: Economic Counselor John Carwile reasons 1.4 b and d

[1](#)1. (C) SUMMARY: After nearly six months of sustained U.S. and GOI effort, Iraq's Council of Representatives (COR) passed the amendment to the National Investment Law (NIL) on 13 October. Significantly, the amendment will provide for limited foreign ownership of land in Iraq for the purposes of developing residential housing projects. Perhaps more importantly, the amendment calls for the formation of a central land committee made up of key land-holding ministries, which will determine those lands to be allocated for sale or lease and how the holding ministries will be compensated. While passage of the amendment represents a positive sign to the private sector in advance of the October 20-21 U.S. - Iraq Business and Investment Conference, expectations on the effective execution of the changes contained therein should be tempered. (ref A) END SUMMARY

ALL HANDS ON DECK: POTUS, AMBASSADOR, SPEAKER, NIC CHAIRMAN

[1](#)2. (C) After nearly three years' worth of a steadily growing list of investment licenses stalled by land-use issues, the GOI developed the first amendment to the NIL earlier this year. The amendment arrived at the COR in May of 2009, at which time National Investment Commission Chairman (NIC) Dr. Sami al-Araji began lobbying individual COR members and committees for its passage. In June, post reported on the amendment in the context of broader structural challenges to Iraq's economic development. In July, PM Maliki travelled to the United States with al-Araji among others, and met with POTUS in the Oval Office. During that meeting, POTUS noted that the GOI should address the structural inhibitors to economic development in Iraq, specifically mentioning land use. In August, PM Maliki made repeated public comments regarding the importance of foreign land ownership. Additionally, al-Araji informed Emboffs that the PM had instructed him to make the amendment his first priority. With the Business and Investment Conference fast approaching, the Ambassador met with both PM Maliki and COR Speaker Ayad al-Samarraie to underscore the importance of the amendment and received their assurances that it would indeed pass. (reftels B,C) On October 13th, after several procedural delays common to the COR, the amendment received its third and final reading and passed with an reported unanimous vote.

WHAT IT IS, WHAT IT ISN'T

---The original text of the 2006 National Investment Law (Number 13) can be found at the Iraqi National Investment Commission Website at www.investpromo.gov.iq---

¶3. (SBU) The amendment contains eight main articles, most addressing procedural issues and minor changes to the NIL itself. Those of greatest interest however, relate to foreign ownership of land and the formation of a central land committee. The amendment will revise article 10 of the NIL to allow foreign ownership of land, albeit with significant limitations: a foreign investor will be allowed to purchase land for the express purpose of developing residential housing projects. Additionally, the investor would be required to sell the developed land, as described in their investment proposal or rent the land out for up to 50 years, after which time the land would transfer back to Iraqi control.

¶4. (SBU) The other, perhaps more significant, feature of the amendment is the provision for the formation of a central land committee. The committee, chaired by the NIC Chairman (currently, Dr. Sami al-Araji), would be responsible for approving lands identified by sub-committees for investment. Additionally, the Committee would determine the remuneration terms for the lands identified for sale and/or lease. It is worth noting that the central land committee is required to complete its duties on land allocation within six months of the passage of the law. As written, this section of the amendment would mean that the NIC Chairman would have a pre-determined and priced selection of land that could be used for investment purposes.

--Membership of the central committee will be comprised of: The Ministries of Finance, Municipalities, Agriculture, Oil, Planning, Construction and Housing, Environment, as well as the Ministry of State for Tourism and Heritage.

--Membership of the sub-committees, to be formed at the provincial or regional level, will be comprised of: The Ministries of Finance, Municipalities, Agriculture, the Provincial Government, and the Provincial.

COMMENT

¶5. (C) The passage of the amendment to the NIL is a strong signal that the GOI is willing to tackle politically sensitive issues such as foreign land ownership and investment. That said, the amendment is far from a panacea for Iraq's investment climate. It is one positive step, delivered on the eve of the BIC, which indicates a willingness to make progress on issues important to the USG and international investors, writ large. Iraq's upcoming national elections and the expected lengthy time needed to form a new government may slow down concrete implementation of this amendment. (Note: One important point which remains unclear in the amendment is the methodology and cost basis for land valuation. End Note) Furthermore, given the documented resistance of major landholding Ministries like Finance and Municipalities to the NIL, the prospects for real, near-term progress on land use in Iraq may be problematic.

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